



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/496,467 02/02/00 BODKIN

L D-7211 (1) *SM*

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PM82/0924

EXAMINER
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HAWKINS GAY, J

ART UNIT	PAPER NUMBER
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3672

DATE MAILED:

09/24/01 *10*

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/496,467

Applicant(s)

BODKIN, LAWRENCE E

Examiner

Jennifer H Gay

Art Unit

3672

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☒ Claim(s) 9,10,16,17 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 9, 10, 16, and 17 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The above claims merely site that the cavity is made with walls that conform to the shape of the floating object. This limitation is recited in lines 3 and 4 of claim 1 and lines 5-7 of claim 15.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
3. Claims 9, 10, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
  - a. Claims 9 and 10, line 2, recite "a preexisting body". The claim is considered vague and confusing because it is unclear if applicant is referring to the body mentioned in line 1 of claim 1 or a new and separate body. It is suggested that line 1 be changed to read --the preexisting body--.
  - b. Claim 16, line 1, recites "a preexisting body". The claim is considered vague and confusing because it is unclear if applicant is referring to the body mentioned in line 3 of claim 15 or a new and separate body. It is suggested that line 1 be changed to read --the preexisting body--.

### ***Claim Rejections - 35 USC § 101***

4. 35 U.S.C. 101 reads as follows:

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Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention lacks patentable utility. All of the above claims are directed toward the Applicant's revised buoyancy law. Laws of nature, such as Archimedes' Principle (see Elementary Fluid Mechanics, pages 64 and 65 and *Archimedes' Principle*), are not considered statutory subject matter thus are not patentable. Further, any new discoveries, such as a new law of nature, are considered "manifestations of...nature, free to all men and reserved exclusively to none." (See MPEP 2105) However, the Applicant's revised law is considered a violation of the established natural law of buoyancy and such violations of laws of nature have been upheld by the Federal Courts as not patentable.

*Rejections under 35 U.S.C. 101 have been rarely sustained by Federal courts. Generally speaking, in these rare cases, the 35 U.S.C. 101 rejection was sustained either because the applicant failed to disclose any utility for the invention or asserted a utility that could only be true if it violated a scientific principle, such as the second law of thermodynamics, or a law of nature, or was wholly inconsistent with contemporary knowledge in the art. In re Gazave, 379 F.2d 973, 978, 154 USPQ 92, 96 (CCPA 1967). (MPEP 2107.01)*

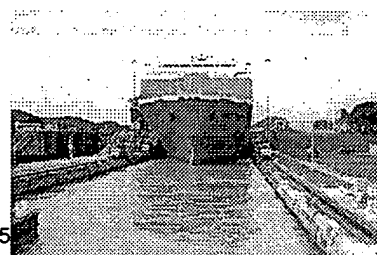
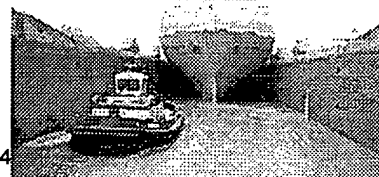
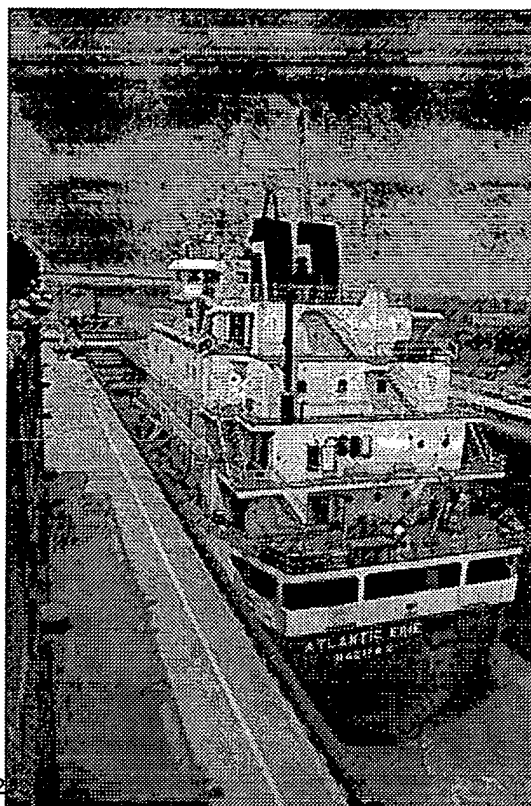
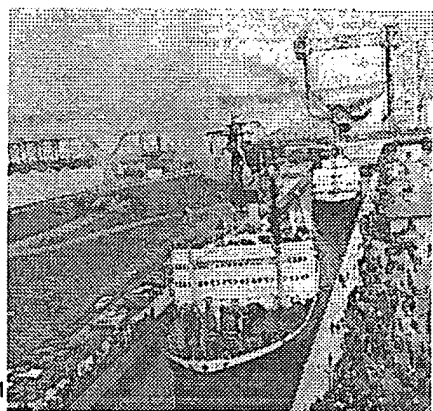
### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Omachi and the following six pictures.



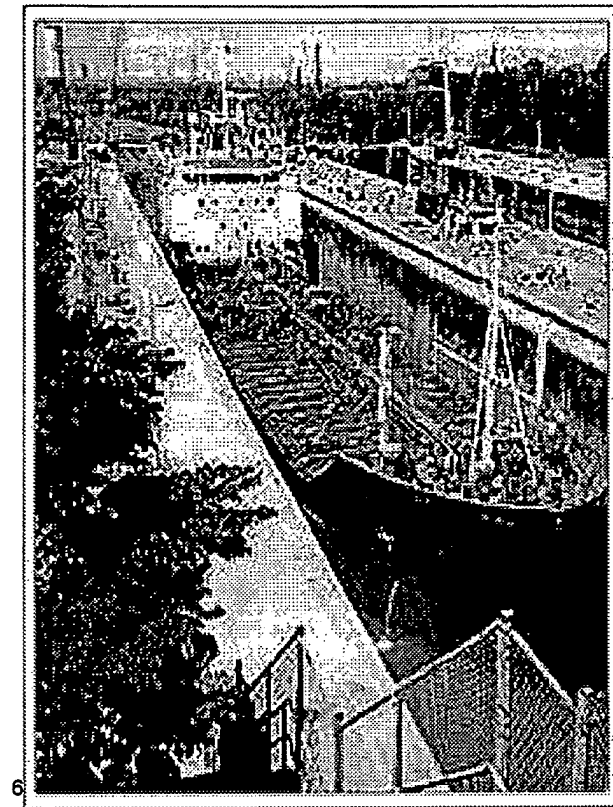
<sup>1</sup> [www.collections.ic.gc.ca/stlauren/econ/ec\\_inau1959.htm](http://www.collections.ic.gc.ca/stlauren/econ/ec_inau1959.htm)

<sup>2</sup> [www.boldts.net/Niagara5.shtml](http://www.boldts.net/Niagara5.shtml)

<sup>3</sup> [www.americaslibrary.gov/pages/jb\\_0907\\_pancanal\\_2.html](http://www.americaslibrary.gov/pages/jb_0907_pancanal_2.html)

<sup>4</sup> [www.dgolds.com/Panama/ThroughTheLocksWithAPanamaxShip.htm](http://www.dgolds.com/Panama/ThroughTheLocksWithAPanamaxShip.htm)

<sup>5</sup> [www.dgolds.com/Panama/ThroughTheLocksWithAPanamaxShip.htm](http://www.dgolds.com/Panama/ThroughTheLocksWithAPanamaxShip.htm)



Omachi and the above six pictures disclose a cavity that is made to hold liquid. The walls of the body are formed so they correspond to the shape of a body within the cavity. This includes horizontal walls that are closely spaced to the horizontal walls of the body and vertical walls that are closely spaced to the vertical walls of the body. The walls of the cavity and the body are also slightly sloped to further reduce the space between the walls.

Though not specifically disclosed or taught, the limitation that the liquid within the cavity exerting an upward force on the body that is greater than the weight of the liquid that it displaces and an equal to a volume of liquid that had the same volume as the object or that portion that is immersed is considered an inherent trait of the above canals and locks.

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<sup>6</sup> [www.infonigara.com/d-canal.html](http://www.infonigara.com/d-canal.html)

### ***Response to Arguments***

8. Applicant's arguments filed 12 July 2001 have been fully considered but they are not persuasive.

In response to applicant's arguments that the fact that the examiner thinks the claimed invention is a violation of a natural law does not negate the function of the invention but indicates that there is no prior art because it is considered contrary to established principles the examiner would like to note that natural laws and established principles are considered the same thing. The examiner would also like to repeat that anything that is contrary to natural laws or established principles are not patentable. Further, the prior art cited above teaches the device recited in the claims and if the applicant considers the claimed invention to be "a correction of established law" then the above devices would inherently demonstrate that same buoyancy characteristics as those recited in the claims.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Encyclopedia Britannica, "Canals and Inland Waterways: Locks", discloses many characteristics and dimensions of locks and canals.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer H Gay, formally Jennifer M Hawkins, whose telephone number is (703) 308-2881. The examiner can normally be reached on Monday-Friday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (703) 308-2151. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 306-7687 for regular communications and (703) 306-7687 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-1113.

JHG

September 18, 2001



DAVID BAGNELL  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600